

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**CARL PETERS**

**PLAINTIFF**

**V.**

**CIVIL ACTION NO. 2:23-cv-11-KS-MTP**

**ATTORNEY GENERAL for the  
STATE OF MISSISSIPPI, et al.**

**DEFENDANTS**

**ORDER ADOPTING REPORT AND RECOMMENDATION  
AND ORDER OF DISMISSAL**

This cause comes before the Court on the June 13, 2023 Report and Recommendation of U.S. Magistrate Judge Michael Parker [11], recommending that this case be dismissed without prejudice for Plaintiff's failure to prosecute and comply with Orders of this Court. Objections were due by June 27, 2023, but Plaintiff did not file any objections to the Report and Recommendation by the prescribed date.

When parties do not file written objections, courts apply a "clearly erroneous, abuse of discretion and contrary to law" standard of review to a report and recommendation. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). As required by 28 U.S.C. § 636(b)(1), the Court has conducted an independent review of the entire record and finds that, indeed, Plaintiff has failed to file proof of proper and timely service on the Defendants in this action in compliance with Federal Rule of Civil Procedure 4(c) and 4(l)(1) and has failed to respond to the Court's Orders in that regard. *See* [5], [9].

Plaintiff was warned that Rule 4(m) provides for dismissal without prejudice if a defendant is not timely served, *see* [11], and the Magistrate Judge has recommended dismissal without prejudice. However, Federal Rule of Civil Procedure 41(b) provides that if a plaintiff fails to prosecute an action or comply with the Rules or a court order, an action may be

dismissed with prejudice, and the Court may do so *sua sponte*. See *Link v. Wabash R. Co.*, 370 U.S. 626, 630 (1962). Here, Plaintiff has failed to prosecute, failed to comply with the Rules, and failed to comply with Court Orders. Therefore, the Court finds dismissal with prejudice warranted.

Therefore, finding that the Report and Recommendation contains no clear error and is not contrary to law, the Court hereby accepts, approves, and adopts the factual findings and legal conclusions contained in the Report and Recommendation entered by United States Magistrate Judge Michael T. Parker pursuant to 28 U.S.C. § 636(b)(1), save for the type of dismissal.

ACCORDINGLY, it is hereby ORDERED that all claims against the Defendants in this action are dismissed with prejudice. This case is closed.

SO ORDERED AND ADJUDGED this 28th day of June 2023.

/s/ Keith Starrett  
KEITH STARRETT  
UNITED STATES DISTRICT JUDGE